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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,066	09/11/2003	Brian K. Smith	CE11386J1121	6166

24273 7590 03/21/2007
MOTOROLA, INC
INTELLECTUAL PROPERTY SECTION
LAW DEPT
8000 WEST SUNRISE BLVD
FT LAUDERDAL, FL 33322

EXAMINER

DEAN, RAYMOND S

ART UNIT	PAPER NUMBER
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2618

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/21/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/660,066	SMITH ET AL.	
	Examiner	Art Unit	
	Raymond S. Dean	2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4-16 is/are allowed.
- 6) ☒ Claim(s) 1-3, 17 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. The affidavit filed on December 13, 2006 under 37 CFR 1.131 has been considered but is ineffective to overcome the Kaidar et al. (US 2004/0264413) reference.

The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the Kaidar reference. While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897).

The Motorola patent disclosure submitted for documentary evidence has been carefully reviewed by the Examiner and it has been determined that date of completion of the invention of this application was not established because there is no clear proof (i.e. witness signature and date) that declares completion of the invention on a date prior to June 26, 2003. The rejection under 35 U.S.C. 102(e) as anticipated by Kaidar thus stands.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1 – 3 and 17 – 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Kaidar et al. (US 2004/0264413).

Regarding Claim 1, Kaidar teaches a method of receiving RF signal quality information comprising the steps of: at a first station, receiving a plurality of probe responses over a channel (Sections 0001, 0020, during passive scanning the station receives a plurality of probe responses); determining a current transmit rate of the probe responses (Sections 0001, 0020, in typical WLANs the stations synchronize with the probe responses such that information can be extracted, in order for said synchronization to take place there will be a determination of the transmit rate of the probe responses); synchronizing signal processing to the current transmit rate of the probe responses (Sections 0001, 0020, in typical WLANs the stations synchronize with the probe responses such that information can be extracted); and processing the probe responses to determine at least one of a signal quality of the channel and a transmission protocol being used over the channel (Section 0020); wherein the probe

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responses are transmitted in reply to probe requests generated by a second station (Section 0001, passive scanning).

Regarding Claim 2, Kaidar teaches all of the claimed limitations recited in Claim

1. Kaidar further teaches the first station generating a probe request responsive to failing to receive a probe response for a predetermined period of time (Section 0001, in typical WLANs, if the station cannot detect probe responses said station will generate a probe request).

Regarding Claim 3, Kaidar teaches all of the claimed limitations recited in Claim

1. Kaidar further teaches the first station delaying a start of channel monitoring (Section 0001, in typical WLANs, the station can delay the channel monitoring in order for synchronization to occur).

Regarding Claim 17, Kaidar teaches a system for synchronizing a radio transceiver to a wireless local area network, comprising: a first receiver for receiving a plurality of probe responses over a channel in response to at least one probe request (Sections 0001, 0020, during passive scanning the station receives a plurality of probe responses); a processor in the radio transceiver programmed to: initiate a probe request if no probe responses are detected at the first receiver (Section 0001, in typical WLANs, if the station cannot detect probe responses said station will generate a probe request); stop further probe requests if probe responses in response to probe requests from another device are received at the radio receiver (Section 0001, in typical WLANs, the station will halt transmission of probe requests when synchronization with the probe responses occurs); and synchronize to at least one among probe requests from

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another device and probe responses in response to probe requests from another device (Sections 0001, 0020, passive scanning, in typical WLANs the stations synchronize with the probe responses such that information can be extracted).

Regarding Claim 18, Kaidar teaches all of the claimed limitations recited in Claim 17. Kaidar further teaches wherein the plurality of probe responses are transmitted to the radio receiver from a wireless access point (Sections 0001, 0020).

Allowable Subject Matter

4. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record does not teach or show the following: **determining a time period between successive probe request transmissions from the station to the first access point; and from the probe request generator and in response to the probe requests being transmitted from the station to the first access point, transmitting a series of probe requests having the determined time period between successive probe request transmissions, determining a time period between successive probe response transmissions; and from the probe request generator and in response to the probe responses being transmitted by the first access point to the station, transmitting a plurality of probe requests having the determined time period between successive probe response transmissions, a probe request processor which determines a time period between successive probe requests that are received from the station; a probe request timing**

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database which stores time stamps associated with the probe requests; a probe request scheduler which schedules probe request transmissions at intervals correlating to the determined time period between the received probe requests.

Claim 4, including all of the dependent claims that depend directly or indirectly on Claim 4, Claim 10, including all of the dependent claims that depend directly or indirectly on Claim 10, and Claim 13, including all of the dependent claims that depend directly or indirectly on Claim 13 are therefore allowable.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

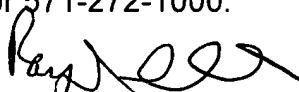
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond S. Dean whose telephone number is 571-272-7877. The examiner can normally be reached on Monday-Friday 6:00-2:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward F. Urban can be reached on 571-272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Raymond S. Dean
March 13, 2007



EDWARD F. URBAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600